

FIRST REGULAR SESSION

SENATE BILL NO. 25

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAMPION.

Pre-filed December 1, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

0266S.01I

AN ACT

To repeal sections 210.145 and 210.183, RSMo, and to enact in lieu thereof two new sections relating to a child abuse or neglect investigation involving the death of a child.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 210.145 and 210.183, RSMo, are repealed and two new
2 sections enacted in lieu thereof, to be known as sections 210.145 and 210.183, to
3 read as follows:

210.145. 1. The division shall develop protocols which give priority to:
2 (1) Ensuring the well-being and safety of the child in instances where
3 child abuse or neglect has been alleged;
4 (2) Promoting the preservation and reunification of children and families
5 consistent with state and federal law;
6 (3) Providing due process for those accused of child abuse or neglect; and
7 (4) Maintaining an information system operating at all times, capable of
8 receiving and maintaining reports. This information system shall have the ability
9 to receive reports over a single, statewide toll-free number. Such information
10 system shall maintain the results of all investigations, family assessments and
11 services, and other relevant information.

12 2. The division shall utilize structured decision-making protocols for
13 classification purposes of all child abuse and neglect reports. The protocols
14 developed by the division shall give priority to ensuring the well-being and safety
15 of the child. All child abuse and neglect reports shall be initiated within
16 twenty-four hours and shall be classified based upon the reported risk and injury
17 to the child. The division shall promulgate rules regarding the structured
18 decision-making protocols to be utilized for all child abuse and neglect reports.

19 3. Upon receipt of a report, the division shall determine if the report

merits investigation, including reports which if true would constitute a suspected violation of any of the following: section 565.020, 565.021, 565.023, 565.024, or 565.050, RSMo, if the victim is a child less than eighteen years of age, section 566.030 or 566.060, RSMo, if the victim is a child less than eighteen years of age, or other crimes under chapter 566, RSMo, if the victim is a child less than eighteen years of age and the perpetrator is twenty-one years of age or older, section 567.050, RSMo, if the victim is a child less than eighteen years of age, section 568.020, 568.030, 568.045, 568.050, 568.060, 568.080, or 568.090, RSMo, section 573.025, 573.035, 573.037, or 573.040, RSMo, or an attempt to commit any such crimes. The division shall immediately communicate all reports that merit investigation to its appropriate local office and any relevant information as may be contained in the information system. The local division staff shall determine, through the use of protocols developed by the division, whether an investigation or the family assessment and services approach should be used to respond to the allegation. The protocols developed by the division shall give priority to ensuring the well-being and safety of the child.

4. The local office shall contact the appropriate law enforcement agency immediately upon receipt of a report which division personnel determine merits an investigation and provide such agency with a detailed description of the report received. In such cases the local division office shall request the assistance of the local law enforcement agency in all aspects of the investigation of the complaint. The appropriate law enforcement agency shall either assist the division in the investigation or provide the division, within twenty-four hours, an explanation in writing detailing the reasons why it is unable to assist.

5. The local office of the division shall cause an investigation or family assessment and services approach to be initiated in accordance with the protocols established in subsection 2 of this section, except in cases where the sole basis for the report is educational neglect. If the report indicates that educational neglect is the only complaint and there is no suspicion of other neglect or abuse, the investigation shall be initiated within seventy-two hours of receipt of the report. If the report indicates the child is in danger of serious physical harm or threat to life, an investigation shall include direct observation of the subject child within twenty-four hours of the receipt of the report. Local law enforcement shall take all necessary steps to facilitate such direct observation. If the parents of the child are not the alleged abusers, a parent of the child must be notified prior to the child being interviewed by the division. If the abuse is alleged to have occurred in a school or child-care facility the division shall not meet with the child in any

57 school building or child-care facility building where abuse of such child is alleged
58 to have occurred. When the child is reported absent from the residence, the
59 location and the well-being of the child shall be verified. For purposes of this
60 subsection, "child-care facility" shall have the same meaning as such term is
61 defined in section 210.201.

62 6. The director of the division shall name at least one chief investigator
63 for each local division office, who shall direct the division response on any case
64 involving a second or subsequent incident regarding the same subject child or
65 perpetrator. The duties of a chief investigator shall include verification of direct
66 observation of the subject child by the division and shall ensure information
67 regarding the status of an investigation is provided to the public school district
68 liaison. The public school district liaison shall develop protocol in conjunction
69 with the chief investigator to ensure information regarding an investigation is
70 shared with appropriate school personnel. The superintendent of each school
71 district shall designate a specific person or persons to act as the public school
72 district liaison. Should the subject child attend a nonpublic school the chief
73 investigator shall notify the school principal of the investigation. Upon
74 notification of an investigation, all information received by the public school
75 district liaison or the school shall be subject to the provisions of the federal
76 Family Educational Rights and Privacy Act (FERPA), 20 U.S.C., Section 1232g,
77 and federal rule 34 C.F.R., Part 99.

78 7. The investigation shall include but not be limited to the nature, extent,
79 and cause of the abuse or neglect; the identity and age of the person responsible
80 for the abuse or neglect; the names and conditions of other children in the home,
81 if any; the home environment and the relationship of the subject child to the
82 parents or other persons responsible for the child's care; any indication of
83 incidents of physical violence against any other household or family member; and
84 other pertinent data.

85 8. When a report has been made by a person required to report under
86 section 210.115, the division shall contact the person who made such report
87 within forty-eight hours of the receipt of the report in order to ensure that full
88 information has been received and to obtain any additional information or medical
89 records, or both, that may be pertinent.

90 9. Upon completion of the investigation, if the division suspects that the
91 report was made maliciously or for the purpose of harassment, the division shall
92 refer the report and any evidence of malice or harassment to the local prosecuting
93 or circuit attorney.

94 10. Multidisciplinary teams shall be used whenever conducting the
95 investigation as determined by the division in conjunction with local law
96 enforcement. Multidisciplinary teams shall be used in providing protective or
97 preventive social services, including the services of law enforcement, a liaison of
98 the local public school, the juvenile officer, the juvenile court, and other agencies,
99 both public and private.

100 11. For all family support team meetings involving an alleged victim of
101 child abuse or neglect, the parents, legal counsel for the parents, foster parents,
102 the legal guardian or custodian of the child, the guardian ad litem for the child,
103 and the volunteer advocate for the child shall be provided notice and be permitted
104 to attend all such meetings. Family members, other than alleged perpetrators,
105 or other community informal or formal service providers that provide significant
106 support to the child and other individuals may also be invited at the discretion
107 of the parents of the child. In addition, the parents, the legal counsel for the
108 parents, the legal guardian or custodian and the foster parents may request that
109 other individuals, other than alleged perpetrators, be permitted to attend such
110 team meetings. Once a person is provided notice of or attends such team
111 meetings, the division or the convenor of the meeting shall provide such persons
112 with notice of all such subsequent meetings involving the child. Families may
113 determine whether individuals invited at their discretion shall continue to be
114 invited.

115 12. If the appropriate local division personnel determine after an
116 investigation has begun that completing an investigation is not appropriate, the
117 division shall conduct a family assessment and services approach. The division
118 shall provide written notification to local law enforcement prior to terminating
119 any investigative process. The reason for the termination of the investigative
120 process shall be documented in the record of the division and the written
121 notification submitted to local law enforcement. Such notification shall not
122 preclude nor prevent any investigation by law enforcement.

123 13. If the appropriate local division personnel determines to use a family
124 assessment and services approach, the division shall:

125 (1) Assess any service needs of the family. The assessment of risk and
126 service needs shall be based on information gathered from the family and other
127 sources;

128 (2) Provide services which are voluntary and time-limited unless it is
129 determined by the division based on the assessment of risk that there will be a
130 high risk of abuse or neglect if the family refuses to accept the services. The

131 division shall identify services for families where it is determined that the child
132 is at high risk of future abuse or neglect. The division shall thoroughly document
133 in the record its attempt to provide voluntary services and the reasons these
134 services are important to reduce the risk of future abuse or neglect to the child.
135 If the family continues to refuse voluntary services or the child needs to be
136 protected, the division may commence an investigation;

137 (3) Commence an immediate investigation if at any time during the family
138 assessment and services approach the division determines that an investigation,
139 as delineated in sections 210.109 to 210.183, is required. The division staff who
140 have conducted the assessment may remain involved in the provision of services
141 to the child and family;

142 (4) Document at the time the case is closed, the outcome of the family
143 assessment and services approach, any service provided and the removal of risk
144 to the child, if it existed.

145 14. Within thirty days of an oral report of abuse or neglect, the local office
146 shall update the information in the information system. The information system
147 shall contain, at a minimum, the determination made by the division as a result
148 of the investigation, identifying information on the subjects of the report, those
149 responsible for the care of the subject child and other relevant dispositional
150 information. The division shall complete all investigations within thirty days,
151 unless good cause for the failure to complete the investigation is documented in
152 the information system. **If a child involved in a pending investigation dies,**
153 **the investigation shall remain open until the division's investigation**
154 **surrounding the death is completed.** If the investigation is not completed
155 within thirty days, the information system shall be updated at regular intervals
156 and upon the completion of the investigation. The information in the information
157 system shall be updated to reflect any subsequent findings, including any changes
158 to the findings based on an administrative or judicial hearing on the matter.

159 15. A person required to report under section 210.115 to the division and
160 any person making a report of child abuse or neglect made to the division which
161 is not made anonymously shall be informed by the division of his or her right to
162 obtain information concerning the disposition of his or her report. Such person
163 shall receive, from the local office, if requested, information on the general
164 disposition of his or her report. Such person may receive, if requested, findings
165 and information concerning the case. Such release of information shall be at the
166 discretion of the director based upon a review of the reporter's ability to assist in
167 protecting the child or the potential harm to the child or other children within the

168 family. The local office shall respond to the request within forty-five days. The
169 findings shall be made available to the reporter within five days of the outcome
170 of the investigation. If the report is determined to be unsubstantiated, the
171 reporter may request that the report be referred by the division to the office of
172 child advocate for children's protection and services established in sections 37.700
173 to 37.730, RSMo. Upon request by a reporter under this subsection, the division
174 shall refer an unsubstantiated report of child abuse or neglect to the office of
175 child advocate for children's protection and services.

176 16. In any judicial proceeding involving the custody of a child the fact that
177 a report may have been made pursuant to sections 210.109 to 210.183 shall not
178 be admissible. However:

179 (1) Nothing in this subsection shall prohibit the introduction of evidence
180 from independent sources to support the allegations that may have caused a
181 report to have been made; and

182 (2) The court may on its own motion, or shall if requested by a party to
183 the proceeding, make an inquiry not on the record with the children's division to
184 determine if such a report has been made. If a report has been made, the court
185 may stay the custody proceeding until the children's division completes its
186 investigation.

187 17. In any judicial proceeding involving the custody of a child where the
188 court determines that the child is in need of services pursuant to subdivision (d)
189 of subsection 1 of section 211.031, RSMo, and has taken jurisdiction, the child's
190 parent, guardian or custodian shall not be entered into the registry.

191 18. The children's division is hereby granted the authority to promulgate
192 rules and regulations pursuant to the provisions of section 207.021, RSMo, and
193 chapter 536, RSMo, to carry out the provisions of sections 210.109 to 210.183.

194 19. Any rule or portion of a rule, as that term is defined in section
195 536.010, RSMo, that is created under the authority delegated in this section shall
196 become effective only if it complies with and is subject to all of the provisions of
197 chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and
198 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
199 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
200 date or to disapprove and annul a rule are subsequently held unconstitutional,
201 then the grant of rulemaking authority and any rule proposed or adopted after
202 August 28, 2000, shall be invalid and void.

 210.183. 1. At the time of the initial investigation of a report of child
2 abuse or neglect, the division employee conducting the investigation shall provide

3 the alleged perpetrator with a written description of the investigation
4 process. Such written notice shall be given substantially in the following form:

5 "The investigation is being undertaken by the Children's Division pursuant
6 to the requirements of chapter 210 of the Revised Missouri Statutes in response
7 to a report of child abuse or neglect.

8 The identity of the person who reported the incident of abuse or neglect
9 is confidential and may not even be known to the Division since the report could
10 have been made anonymously.

11 This investigation is required by law to be conducted in order to enable the
12 Children's Division to identify incidents of abuse or neglect in order to provide
13 protective or preventive social services to families who are in need of such
14 services.

15 The division shall make every reasonable attempt to complete the
16 investigation within thirty days, **except if a child involved in the pending**
17 **investigation dies, the investigation shall remain open until the**
18 **division's investigation surrounding the death is completed. Otherwise,**
19 within ninety days you will receive a letter from the Division which will inform
20 you of one of the following:

21 (1) That the Division has found insufficient evidence of abuse or neglect;
22 or

23 (2) That there appears to be by a preponderance of the evidence reason to
24 suspect the existence of child abuse or neglect in the judgment of the Division and
25 that the Division will contact the family to offer social services.

26 If the Division finds by a preponderance of the evidence reason to believe
27 child abuse or neglect has occurred or the case is substantiated by court
28 adjudication, a record of the report and information gathered during the
29 investigation will remain on file with the Division.

30 If you disagree with the determination of the Division and feel that there
31 is insufficient reason to believe by a preponderance of the evidence that abuse or
32 neglect has occurred, you have a right to request an administrative review at
33 which time you may hire an attorney to represent you. If you request an
34 administrative review on the issue, you will be notified of the date and time of
35 your administrative review hearing by the child abuse and neglect review board.
36 If the Division's decision is reversed by the child abuse and neglect review board,
37 the Division records concerning the report and investigation will be updated to
38 reflect such finding. If the child abuse and neglect review board upholds the
39 Division's decision, an appeal may be filed in circuit court within sixty days of the

40 child abuse and neglect review board's decision."

41 2. If the division uses the family assessment approach, the division shall
42 at the time of the initial contact provide the parent of the child with the following
43 information:

44 (1) The purpose of the contact with the family;

45 (2) The name of the person responding and his or her office telephone
46 number;

47 (3) The assessment process to be followed during the division's
48 intervention with the family including the possible services available and
49 expectations of the family.

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